

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
SUN RIVER BASIN (41K)  
PRELIMINARY DECREE

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CLAIMANTS: Teddie Anderson; Daniel J. Anderson

**CASE 41K-0106-R-2023**  
41K 200779-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

**MASTER'S REPORT**

Claim 41K 200779-00 appeared in the Preliminary Decree for the Sun River (Basin 41K) with the following issue remarks:

CLAIM WAS IMPROPERLY DESIGNATED TO BASIN 41Q . CLAIM WAS NOT INCLUDED IN THE BASIN 41K DECREE ISSUED 05/14/1985.

THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT THE TYPE OF HISTORICAL RIGHT AND PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.

The claim was filed as a ‘use’ irrigation right with a priority date of August 15, 1973. On May 31, 2023, an Order was issued, consolidating the claim into case 41K-0106-R-2023 and setting a filing deadline was set. The Order stated that due to the lack of documentation supporting the claim, the claim would be dismissed and required the claimant to file documentation supporting the historical use of the claim. Nothing was filed in response to the Order.

### **FINDINGS OF FACT**

1. The claim claims a priority date after July 1, 1973, when a water right could no longer be perfected as a ‘use’ right.
2. Claimants were required to file evidence of historical use of the claim and failed to do so.
3. Dismissal of the claim resolves the issue remarks on the claim.

### **PRINCIPLES OF LAW**

1. The Montana Water Court has the authority to determine the extent of all water rights in the state as they existed prior to July 1, 1973. *Fellows v. Saylor*, 2016 MT 45, ¶ 25, 382 Mont. 298, 367 P.3d 732; §§ 85-2-233, -102(12), MCA.
2. If a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing, or fails to comply with an order issued by the water court, the water court, upon motion, or its own initiative, may issue such orders of sanction with regard thereto as are just. Rule 22, W.R.Adj.R. Sanctions applied against claimants may include termination of the water right claim. Rule 22, W.R.Adj.R.
3. Active participation by water users, especially claimants, is imperative for the accuracy of the statewide adjudication effort. *In re Korman*, 2014 Mont. Water LEXIS 17, \*6. Further, “[t]he time required to process these cases is extended substantially when litigants do not comply with deadlines imposed by the Court.” *Huntsman v. Huntsman Ranch Co.*, 2015 Mont. Water LEXIS 2, \*6. It is within the power of this Court to terminate a water right claim if a claimant fails to participate. Rule 22. W.R.Adj.R.

### **CONCLUSION OF LAW**

1. The claimants have failed to participate meaningfully in this case, despite being

given opportunity to do so. *See Order Consolidating Case and Order Filing Deadline*, May 31, 2023. Accordingly, the record supports the dismissal of the claim as a sanction for failing to comply with this Court's previous Order and to resolve the issue remarks appearing on the claim.

### **RECOMMENDATION**

1. Upon review the record in this case, the claim should be dismissed as discussed above.

A Post Decree Abstracts of Water Right Claim is attached to this Master's Report for review.

### **ELECTRONICALLY SIGNED AND DATED BELOW.**

#### **Service via USPS Mail:**

Teddie Anderson  
816 10<sup>th</sup> Ave. SW  
Great Falls, MT 59404-3314

Daniel J. Anderson  
704 10<sup>th</sup> Ave. SW  
Great Falls, MT 59404

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
SUN RIVER  
BASIN 41K**

**Water Right Number:** 41K 200779-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** DISMISSED

**Owners:** DANIEL J ANDERSON  
704 10TH AVE SW  
GREAT FALLS, MT 59404  
  
TEDDIE ANDERSON  
816 10TH AVE SW  
GREAT FALLS, MT 59404 3314

**Priority Date:**

**Type of Historical Right:**

**Purpose (use):** IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:** SUN RIVER

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.